

BFI WASTE SYSTEMS OF NORTH
AMERICA, LLC,

VS.

SHAW ENVIRONMENTAL &
INFRASTRUCTURE, INC., et al.,

Case No. 4:09CV1379 HEA

This matter is before the Court on Plaintiff's Motion for Reconsideration and Leave to Amend, [Doc. No. 63]. For the reasons set forth below, the Motion is granted.

On July 30, 2010, the Court entered an Opinion, Memorandum and Order wherein the Court granted the Motion to Dismiss filed by Shaw Environmental & Infrastructure, Inc. (Shaw E&I). The Opinion, however, only addressed whether the Complaint sufficiently alleged claims for breach of contract and indemnification under a veil piercing theory as alleged in Counts III, IV and V of the Complaint. Thus, only Counts III, IV and V should have been dismissed in the

Opinion, rather than the entire Complaint as to Shaw E&I.¹

Shaw E&I argues that the Court should deny the Motion to Reconsider because the Court has allowed Plaintiff leave to file an Amended Complaint, and therefore the Motion is moot.² In order for the record to be clear, however, the Court will amend its July 30, 2010 to reflect the dismissal of Counts III, IV and V, rather than a dismissal of the entire Complaint as to Shaw E&I based on Plaintiff's veil piercing theory. Additionally, Count II will be dismissed as to Shaw E&I based on the findings and conclusions set forth in the Court's Opinion, Memorandum and Order of July 23, 2010.

Plaintiff will be given leave to amend its Complaint.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motion for Reconsideration and Leave to Amend, [Doc. No. 63], is **GRANTED**.

IT IS FURTHER ORDERED that the July 30, 2010 Opinion, Memorandum and Order is amended to the extent that the Motion to Dismiss is

¹ On July 23, 2010, the Court granted in part and denied in part the Motion to Dismiss filed by Shaw LS. The Court denied the Motion as to Count I and granted the Motion as to Count II.

² Shaw E&I also requested leave to file a supplemental memorandum in the event the Court determined that the Motion was not moot. Because the Court believes the Opinion requires amendment based on the unintentional dismissal of the entire Complaint as to Shaw E&I, a supplemental memorandum is not necessary.

granted as to Counts II, III, IV and V of Plaintiff's Complaint.

IT IS FURTHER ORDERED that Plaintiff is given 14 days from the date of this Opinion, Memorandum and Order to file an Amended Complaint.

Dated this 5th day of November, 2010.

A handwritten signature in cursive script, reading "Henry Edward Autrey", written in black ink. The signature is positioned above a horizontal line.

HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE